

THE CLAIMS

Claim Rejections Under 35 USC §103(a)

The Examiner rejected claims 1-51 under 35 USC §103(a) as being unpatentable over Devillier et al. in view of Birckbichler. Applicant respectfully traverses these rejections.

Applicant submits that Devillier et al. (U.S. Patent No. 6,366,661) cannot bar patentability of the present application under 35 U.S.C. § 103(a) because Devillier et al. and the present application were subject to an obligation of assignment to Qwest Communications International Inc. 35 U.S.C. § 103(c) states:

“Subject matter developed by another person, which qualifies as prior art only under one or more subsections (e), (f), and (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.”

As the Examiner knows, section 103(c) was amended effective November 29, 1999 to include 102(e) references, which Devillier et al. is. Thus, if the cited reference and the invention of the present patent application were subject to an obligation of assignment to the same person at the time the invention was made, then the reference is not considered prior art. That is the case here.

The present application and Devilliler et al., the cited 103(a) reference, were, at the time the invention of the present application was made, subject to an obligation of assignment to Qwest Communications International Inc. As a result, Devillier et al. is not prior art to the present application and cannot be used to support a rejection of claims herein under §103.

CONCLUSION

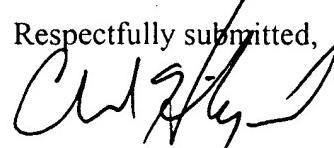
In view of the foregoing, Applicant believes all claims now pending in this Application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

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Application No.: 09/606,617
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PATENT

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at .

Respectfully submitted,



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